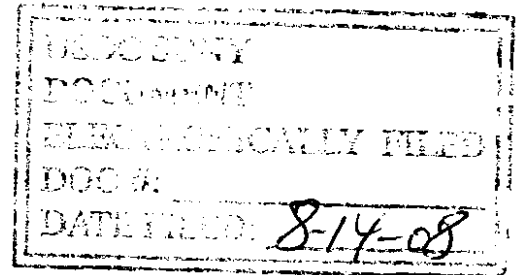


KEENON J

Norman C. Kleinberg (NK 2735)  
Theodore V. H. Mayer (TM 9748)  
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*Attorneys for Defendant Merck & Co., Inc.*



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
IN RE: :  
Fosamax Products Liability Litigation : 1:06-md-1789 (JFK)  
-----X

*This Document Relates to:* :  
Bennie Horton, et al. :  
v. Merck & Co., Inc. :  
:

Case No: 1:07-cv-9482-JFK :  
-----X

**STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs in  
the above-captioned case and Defendant Merck & Co., Inc., ("Merck") through their  
respective undersigned counsel, as follows:

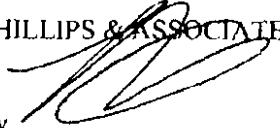
1. This case having been resolved upon the agreement of the Plaintiffs in the  
above-captioned case to voluntarily dismiss with prejudice their claims against Merck  
and the agreement of Merck not to seek from Plaintiffs its fees and costs. The following  
Plaintiffs are hereby dismissed from the above-captioned case with prejudice pursuant to  
Fed. R. Civ. P. 41(a)(1)(ii):

Livia Cicchillo and Hubert Cicchillo, wife and husband;  
Lucrecia B. Conde and Florentino Conde, wife and husband;  
Connie L. Dickson and William Dickson, wife and husband;  
Marilyn Forster and Daniel Forster, wife and husband.

2. Each party is to bear its own costs and attorneys' fees.

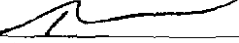
Dated: <sup>August 12</sup>~~April~~ \_\_, 2008

PHILLIPS & ASSOCIATES

By   
\_\_\_\_\_  
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*Attorneys for Defendant Merck & Co, Inc.*

SO ORDERED:

 8/14/08  
\_\_\_\_\_  
Hon. John F. Keenan